

CEMETERY BOARD MEETING

MINUTES

October 22, 2008

The Cemetery Board met on October 22, 2008, at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, Richmond, Virginia. The following members were present:

Kenneth R. Bell, Chairman
Randy Gleason
Delores King
Mike Kirsch
David Gilliam

Board members not present: Isabel Berney

DPOR staff present for all or part of the meeting included:

Jay W. DeBoer, Director
Mark Courtney, Deputy Director
Christine Martine, Executive Director
Bonnie Rhea Adams, Director of Complaint
Analysis, & Resolution
Herb Nichols, Investigator
Earlyne Perkins, Legal Analyst
Emily Trent, Administrative Assistant

Chairman Bell called the meeting to order at 9:03 AM

Call to Order

No one addressed the Board during the Public Comment period.

Public Comment

A motion was made by Mr. Kirsch and seconded by Mr. Gleason to approve the agenda. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

Agenda

A motion was made by Mr. Gleason and seconded by Ms. King to approve the following minutes: June 4, 2008, Board Meeting, June 5, 2008, Informal Fact-Finding Conference, and June 17, 2008, GPL Review Committee Meeting. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

Minutes

In the matter of **File Number 2008-04396, Anthony Harless**, the Board reviewed the record which consisted of the application file, transcript and

File Number 2008-04396,
Anthony Harless

exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Mr. Harless, the applicant, was present and addressed the Board. A motion was made by Mr. Kirsch and seconded by Mr. Gleason to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Harless' application for a cemetery sales personnel registration with the following amendment: Mr. Harless' registration is subject to an agreement for licensure for a period of one year wherein Mr. Harless will provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

In the matter of **File Number 2008-04267, William Stuchell**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Mr. Stuchell, the applicant, was present and addressed the Board. A motion was made by Mr. Kirsch and seconded by Ms. King to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Stuchell's application for a cemetery sales personnel registration with the following amendment: Mr. Stuchell's registration is subject to an agreement for licensure for a period of one year wherein Mr. Stuchell will provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

File Number 2008-04267,
William Stuchell

In the matter of **File Number 2008-03642, Alfred L. Dearing**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. King and seconded by Mr. Gilliam to accept the Consent Order wherein Alfred L. Dearing admits to violation of 18 VAC 47-20-190.13 of the Board's 2000 Regulations (Count 1), and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$650.00. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam and King.

File Number 2008-03642,
Alfred L. Dearing

As the Board member who reviewed the file, Mr. Gleason did not participate in the discussion or vote related to this matter.

Mr. Kirsch recused himself due to a conflict of interest.

In the matter of **File Number 2008-04183, Heidi Sue Knight**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Ms. King to accept the Consent Order

File Number 2008-04183,
Heidi Sue Knight

wherein Heidi Sue Knight admits to a violation of §54.1-2314.2 (Count 1) of the *Code of Virginia*, a violation of §54.1-2314.1 (Count 2) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Counts 1 and 2, as well as \$150.00 in Board costs for a total of \$150.00. In addition, for Count 1, Knight agrees to revocation of her license. Further, for violation of Count 2, Knight agrees to never again apply for another Virginia cemetery salesperson registration. The motion passed unanimously. Members voting “Yes” were Bell, Gilliam, and King.

As the Board member who reviewed the file, Mr. Gleason did not participate in the discussion or vote related to this matter.

Mr. Kirsch recused himself due to a conflict of interest.

In the matter of **File Number 2009-00132, Heidi Sue Knight**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Ms. King to accept the Consent Order wherein Heidi Sue Knight admits to a violation of §54.1-2314.2 (Count 1) of the *Code of Virginia*, a violation of §54.1-2314.1 (Count 2) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Counts 1 and 2, as well as \$150.00 in Board costs for a total of \$150.00. In addition, for Count 1, Knight agrees to revocation of her license. Further, for violation of Count 2, Knight agrees to never again apply for another Virginia cemetery salesperson registration. The motion passed unanimously. Members voting “Yes” were Bell, Gilliam and King.

File Number 2009-00132,
Heidi Sue Knight

As the Board member who reviewed the file, Mr. Gleason did not participate in the discussion or vote related to this matter.

Mr. Kirsch recused himself due to a conflict of interest.

In the matter of **File Number 2009-00135, Heidi Sue Knight**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Ms. King to accept the Consent Order wherein Heidi Sue Knight admits to a violation of §54.1-2314.2 (Count 1) of the *Code of Virginia*, a violation of §54.1-2314.1 (Count 2) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Counts 1 and 2, as well as \$150.00 in Board costs for a total of \$150.00. In addition, for Count 1, Knight agrees to revocation of her license. Further, for violation of Count 2, Knight agrees to never again apply for another Virginia cemetery salesperson registration. The motion passed unanimously. Members voting “Yes” were Bell, Gilliam and King.

File Number 2009-00135,
Heidi Sue Knight

As the Board member who reviewed the file, Mr. Gleason did not participate in the discussion or vote related to this matter.

Mr. Kirsch recused himself due to a conflict of interest.

In the matter of **File Number 2009-00136, Heidi Sue Knight**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Ms. King to accept the Consent Order wherein Heidi Sue Knight admits to a violation of §54.1-2314.2 (Count 1) of the *Code of Virginia*, a violation of §54.1-2314.1 (Count 2) of the *Code of Virginia*, and agrees to no monetary penalty for the violations contained in Counts 1 and 2, as well as \$150.00 in Board costs for a total of \$150.00. In addition, for Count 1, Knight agrees to revocation of her license. Further, for violation of Count 2, Knight agrees to never again apply for another Virginia cemetery salesperson registration. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam and King.

File Number 2009-00136,
Heidi Sue Knight

As the Board member who reviewed the file, Mr. Gleason did not participate in the discussion or vote related to this matter.

Mr. Kirsch recused himself due to a conflict of interest.

In the matter of **File Number 2008-02844, Alleghany Memorial Park, LLC**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Ms. King and seconded by Mr. Gilliam to accept the Consent Order wherein Alleghany Memorial Park admits to a violation of §54.1-2314.3 of the *Code of Virginia* (Count 1), and agrees to a monetary penalty of \$2,500.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$2,650.00. In addition, the Board shall waive imposition of the \$2,500.00 monetary penalty for Count 1 provided Alleghany Memorial Park, LLC, compiles with the following terms and provides proof of compliance to the Board within thirty (30) days of the effective date of the Order: (a) Alleghany Memorial Park, LLC, shall reimburse Hampton E. Forbes ("Forbes") \$39,606.00 for 123 full size grave spaces; (b) Alleghany Memorial Park, LLC, shall reimburse Forbes \$8,431.54 for documented development expenses; (c) Alleghany Memorial Park, LLC, shall issue a Certificate of Interment Rights for Lot 8, Section A, Grave Space 12 to Forbes; (d) Alleghany Memorial Park, LLC, shall issue a Certificate of Interment Rights for Lot 8, Section C, Grave Space 4 to the Chambers. If Alleghany Memorial Park, LLC, fails to comply with these conditions, then the full monetary penalty will be automatically imposed. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam and King.

File Number 2008-02844,
Alleghany Memorial
Park, LLC

As the Board member who reviewed the file, Mr. Gleason did not participate in the discussion or vote related to this matter.

Mr. Kirsch recused himself due to a conflict of interest.

In the matter of **File Number 2008-03523, Heritage Family Cemetery, Incorporated**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Mr. Gleason to accept the Consent Order wherein Heritage Family Cemetery, Incorporated admits to violation of 18 VAC 47-20-220 of the Board's 2005 Regulations (Count 1), and agrees to a monetary penalty of \$250.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$400.00. In addition, for violation of Count 1, Heritage Family Cemetery, Incorporated, agrees to provide the Board with a copy of a new written general price list within 30 days of the effective date of the Order. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

File Number 2008-03523,
Heritage Family
Cemetery, Incorporated

In the matter of **File Number 2008-03257, Dinwiddie Memorial Park Incorporated**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Mr. Gleason to accept the Consent Order wherein Dinwiddie Memorial Park Incorporated admits to (5 violations) of §54.1-2324.A and §54.1-2324.B of the *Code of Virginia* (Count 1), and agrees to a monetary penalty of \$200.00 for each violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$1,150.00. In addition, the Board shall waive \$500.00 of the monetary penalty for Count 1, provided Dinwiddie Memorial Park Incorporated submits to the Board independent CPA audit reports and documentation for the perpetual care trust fund reports for 2003-2007, and submits to the Board the preneed trust reports for 2003-2007, any other relevant documentation, showing that the preneed trust has been resolved, within seventy-five (75) days of the effective date of the Order. If Dinwiddie Memorial Park Incorporated fails to comply with these conditions, then the full monetary penalty will be automatically imposed. The motion passed by majority vote. Members voting "Yes" were Kirsch, Gleason, and Gilliam. Members voting "No" were Bell and King.

File Number 2008-03257,
Dinwiddie Memorial
Park Incorporated

In the matter of **File Number 2008-04412, Rosewell Memorial Garden, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Gleason and seconded by Ms. King to reject the proposed Consent Order offer and extend a counter offer to Rosewell Memorial Garden, Inc. wherein Rosewell Memorial Garden, Inc. admits to (2 violations) of §54.1-2319 of the *Code of Virginia* (Count 1), and

File Number 2008-04412,
Rosewell Memorial
Garden, Inc.

agrees to a monetary penalty of \$2,500.00 for each violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$5,150.00. If Rosewell Memorial Garden, Inc. does not accept the counter offer within 10 days, the case will proceed to an Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

In the matter of **File Number 2008-04163, S. E. Cemeteries of Virginia, Inc.**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Kirsch and seconded by Mr. Gleason to accept the Consent Order wherein S. E. Cemeteries of Virginia, Inc. admits to violation of 18 VAC 47-20-190.13 of the Board's 2000 Regulations (Count 1), and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, and agrees to pay \$150.00 in Board costs for a total of \$350.00. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

File Number 2008-04163,
S. E. Cemeteries of
Virginia, Inc.

In the matter of **File Number 2008-04408, The Victor Group, LLC, t/a Windsor Gardens Cemetery & Mausoleum**, the Board reviewed the record which consisted of the Consent Order. A motion was made by Mr. Bell and seconded by Mr. Gleason to accept the Consent Order wherein The Victory Group, LLC, t/a Windsor Gardens Cemetery & Mausoleum admits to a violation of §54.1-2319 (Count 1) of the *Code of Virginia*, and a violation of §54.1-2325 (Count 2) of the *Code of Virginia*, and agrees to a monetary penalty of \$100.00 for the violation contained in Count 1, and \$100.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$350.00. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

File Number 2008-04408,
The Victor Group, LLC,
t/a Windsor Gardens
Cemetery & Mausoleum

Mr. Chris Mullens, Manager, of SCI Virginia Funeral Services, Inc., submitted a written request to the Board seeking approval to withdraw funds from the perpetual care trust fund of SCI Virginia Funeral Services, Inc. After consideration, a motion was made by Mr. Bell and seconded by Ms. King to deny the request to withdraw funds from the perpetual care trust fund. If the company wants to use capital gains as income, the company needs to ensure that its trustee records earnings as income, as stipulated in the trust agreement. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

Administrative Matters

A motion was made by Mr. Gleason and seconded by Mr. Kirsch to adopt the draft General Price List as a guidance document and to place on the General Price List on the DPOR website. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

The Board agreed to the 2009 Board meeting dates without dissent.

The Board voted unanimously to oppose HB 1593 as submitted for the 2009 General Assembly session.

A motion was made by Mr. Gleason and seconded by Mr. Kirsch to repeal the existing public participation guidelines and to adopt the model public participation guidelines via exempt action. The motion passed unanimously. Members voting "Yes" were Bell, Gilliam, Gleason, King, and Kirsch.

The meeting adjourned at 10:05 AM.

Adjourn

Kenneth Bell, Chairman

Jay DeBoer, Secretary